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C O N F I D E N T I A L SECTION 01 OF 02 ZAGREB 000831

SIPDIS

STATE FOR EUR/SCE, EUR/PPD, EUR/RPM AND S/WCI

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TAGS: [PREL](#) [KAWC](#) [ICTY](#) [HR](#)

SUBJECT: CROATIA ARGUES IT IS DOING ALL IT CAN TO COOPERATE
WITH ICTY

REF: A. ZAGREB 797

[1](#)B. ZIMMER/STINCHCOMB ET.AL. 4 DECEMBER 2008 E-MAILS

Classified By: Chris Zimmer, Political Officer, Reasons 1.4 (B/D)

[1](#)1. (C) SUMMARY: The Government of Croatia (GOC) has delivered a non-paper to all EU and NATO member states dated 03 December 2008 in which it describes the steps Croatia has taken to find the documents and archives requested by the International Criminal Tribunal for the Former Yugoslavia's (ICTY) Office of the Prosecutor in the case of Generals Gotovina, Cermak, and Markac. The Croatians argue that any assessment of their cooperation should wait for the Trial Chamber's ruling on Croatia's October 20 submissions to ICTY. The GOC is very concerned that the ICTY Prosecutor Brammertz's reports to the UN Security Council (the written report was submitted on 21 November, and an oral presentation to the UNSC is scheduled for 12 December) may damage their EU accession process. State Secretary Bozinovic on December 4 told the Ambassador that he is particularly worried that the Netherlands and Belgian governments will drag the ICTY cooperation issue into EU accession negotiations. END SUMMARY.

[1](#)2. (U) The Croatian non-paper (emailed to EUR/SCE and S/WCI in REF B) is entitled "Open issue regarding the cooperation of the Republic of Croatia with the Prosecutor's Office of the International Criminal Tribunal for the Former Yugoslavia (ICTY)." It details the steps the GOC has taken to identify, locate, and deliver documents requested by ICTY's Office of the Prosecutor (OTP) in fulfillment of a Trial Chamber order for the GOC to deliver all requested documentation or results of investigation into missing documents by October 20.

[1](#)3. (U) Statistics regarding the number of documents requested, missing or submitted are difficult to decipher in the non-paper. But the key argument reportedly is about what the GoC paper describes as "323 documents (so called artillery diaries) for which (OTP officials) presume should exist." The GoC says that its investigations turned up many documents, both from the police and the military "which pertain to artillery operations." The GoC also claimed that "all the Croatian artillery operations during Operation "Storm" can be reconstructed in its entirety based on the already produced documents" and that it has provided such a reconstruction to the ICTY. As of October 20, the GoC said it had submitted many additional documents, as well as a reconstruction of artillery operations. It noted that its investigations continue to try and locate more documents.

[1](#)4. (U) The GOC also reports that, as a result of its investigations, the State Prosecutor began criminal proceedings against three persons, including two active military members, for hiding and destroying state archive materials (REF A). (NOTE: One of the persons involved is a lawyer who serves as a member of Gotovina's legal team. END NOTE.)

¶5. (U) Prosecutor Brammertz, both in his November 10 visit to Zagreb, and in his November 21 report to the UNSC, has indicated that he still has not received the artillery diaries that his investigators believe existed, and that he is "not satisfied" with the Croatian investigation so far.

¶6. (U) The GoC argues in its non-paper, however, that, since the Trial Chamber ordered the investigation into the missing documents, any assessment on Croatia's cooperation should await the ruling of the Trial Chamber on whether Croatia has fully complied with the 54 bis Order of September 16, or whether Croatia still needs to take any additional steps.

¶7. (C) On December 4, Ministry of Foreign Affairs State Secretary Bozinovic asked to see the Ambassador. Bozinovic expressed grave concerns that Brammertz's reports to the UNSC came at a very bad time. The GoC is especially worried that EU member states, particularly the Netherlands and Belgium, will drag the ICTY issue into EU accession negotiations. The Croatians believe that the only negative aspect to their ICTY cooperation has been the issue of the alleged artillery logs, and that they should get credit for having undertaken a serious investigation that has continued to produce some progress even since Brammertz filed his written report on November 21.

¶8. (C) COMMENT: As Croatia's EU accession negotiations continue to move forward slowly, hampered by weak administrative capacity, a sometimes difficult relationship with Slovenia (septel) and continuing challenges in reforming the judiciary and shipbuilding sector, the GoC is right to be concerned that ICTY issues might further sour the mood. The

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Dutch press on December 5 report that European Affairs Minister Frans Timmermans has told the Dutch parliament that the ICTY issues raise "concerns" about whether Croatia is meeting the pre-condition for the EU of full cooperation with the ICTY. PM Sanader, we are told, has personally instructed the Ministers of Justice, Defense and Interior, as well as the Chief State Attorney, to solve this problem. But, given that the Croatians continue to insist they simply do not have any more artillery logs, it is unclear if they can satisfy The Hague. For now, the GoC hopes that the Court will see things differently from the Prosecutor's Office. END COMMENT.
BRADTKE